

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JABBAR AL-KHAFAGI,

Petitioner,

v.

JOSHUA HIGHBERGER,

Respondent.

Case No. 6:21-cv-00508-JE

ORDER ADOPTING F&R

Jabbar Al-Khafagi, Oregon State Correctional Institution, 3405 Deer Park Drive SE, Salem, OR 97301. Petitioner, *Pro Se*.

Ellen F. Rosenblum, Attorney General, Daniel T. Toulson, Assistant Attorney General, Department of Justice, 1162 Court Street NE, Salem, OR 97301. Attorneys for Respondent.

IMMERGUT, District Judge.

On December 21, 2022, Magistrate Judge John Jelderks issued his Findings and Recommendation (“F&R”). ECF 37. The F&R recommends that Petitioner’s Writ of Habeas Corpus, ECF 2, should be denied and a judgment should be entered dismissing this case with prejudice. ECF 37. The F&R further recommends that this Court decline to issue a certificate of appealability. *Id.* Petitioner filed objections to the F&R, ECF 39, and Respondent filed a response, ECF 40.

STANDARDS

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge’s F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, sua sponte” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

CONCLUSION

This Court has reviewed de novo the portions of the F&R to which Petitioner objects and accepts Judge Jelderks’s conclusions. The F&R, ECF 37, is adopted in full. This Court DENIES Petitioner’s Writ of Habeas Corpus, ECF 2, with prejudice. This Court DECLINES to issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 24th day of January, 2023.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge